TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 360.

THE UNITED STATES, APPELLANTS,

vs.

ALONZO CHILD, ELON G. PRATT, ELIAS W. FOX, AND PEARLEY A. CHILD.

APPEAL FROM THE COURT OF CLAIMS.

FILED DECEMBER 11, 1869.

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1 In the Court of Claims.—No 2139.

ALONZO CHILD, ELON G. PRATT, ELIAS W. FOX, and Pearley A. Child, claimants, *versus* THE UNITED STATES OF AMERICA, DEFENDANTS. } Of the October term, 1864.

DISTRICT OF COLUMBIA, *ss:*

The claimants, Child, Pratt & Fox, a firm of merchants in the city of St. Louis, State of Missouri, composed of Alonzo Child, Elon G. Pratt, Elias W. Fox, and Pearley A. Child, state that they are each of them citizens of the United States; that they are the original owners of all the claims hereinafter stated; and that each and every of the members of said firm of Child, Pratt & Fox have borne at all times true allegiance to the government of the United States, and that neither one of said members of said firm have in any way voluntarily aided, abetted, or given encouragement to rebellion against the said government, but, on the contrary thereof, they have aided, assisted, supported, protected, and defended the said government against the enemies arrayed against it in this war to the best of their knowledge, skill, and ability.

These claimants further state that on the days and times hereinafter stated, in the year 1861, and shortly after the battle of Wilson's Creek, they furnished for the use of the army of the United States, to the quartermasters of said army, by sale, in open market, at the city of St. Louis, the total amount of four hundred seventy-eight thousand one hundred and nineteen $\frac{62}{100}$ dollars. And these claimants received from the several quartermasters of the United States Army, for each amount hereinafter stated, upon said sales in open market, a regular voucher, according to army regulations of the federal army, and each of said vouchers was for divers kinds of equipments for the federal army, as appears from the several vouchers, copies of which are filed with this petition, and was substantially in the following form, and for the several amounts hereinafter stated:

FORM OF VOUCHER.

The United States to Child, Pratt & Fox, DR.

Date of purchase.	Articles.	Dolls.	Cts.
	(Articles purchased in open market, as stated in each voucher, with date of purchase, and price of each article, copies of which are hereinafter filed.)		

I certify that the above account is correct and just, and that the articles have been accounted for on my property return for the quarter ending on the — day of —, 1861.

(Name of quartermaster,) *Quartermaster.*

And all of the said purchases, appearing in said vouchers, were duly made by the proper quartermaster of the federal army at St. Louis, from these claimants, in open market, pursuant to the orders of General John Charles Fremont, commander-in-chief of the Department of the West, and each and every of the said articles were duly accounted for on the property returns of the current quarters of the respective quartermasters making such purchases.

And the following is a complete list of all the said vouchers, and the several amounts thereof, and dates of purchases, also of the amounts paid to these claimants on each of said vouchers, and the amount due to these claimants from the United States upon each of said vouchers, by what quartermaster signed, place where executed, kind of goods,

and amount allowed on the vouchers respectively, by a so-called commission, to wit:

2 *The United States of America to Child, Pratt & Fox,* DR.

Date of voucher.	By whom signed as U. S. quartermaster.	Kind of goods.	Department where voucher was executed.	Amount of voucher.	Amt. allowed by commissr's on voucher.	Amt. not paid on voucher to claimants.
Aug. 10, 1861.	J. McKinstry	Clothing and equipage	St. Louis, Mo.	26,303 80	16,598 63	9,705 17
Sept. 27, "	do	Tools and clothing	do	2,345 80	1,729 15	616 65
" 25, "	do	Hardware	do	180 13	152 75	27 38
" 27, "	do	Boots	do	2,262 50	1,777 50	485 00
" 26, "	do	Clothing and equipage	do	13,006 50	9,493 70	3,512 80
Aug. 17, "	do	Hardware, &c	do	328 15	300 90	27 25
Sept. 9, "	do	do	do	1,253 87	1,073 71	180 16
" 1, "	do	Clothing	do	26,005 05	18,274 25	7,730 80
" 5, "	do	Hardware and equipage	do	10,887 76	8,993 26	1,894 50
" 10, "	do	Clothing and equipage	do	33,611 59	3,786 74	29,824 85
" 12, "	do	Hardware and equipage	do	9,428 00	7,200 89	2,227 11
" 26, "	do	Hardware	do	1,235 13	1,185 72	49 55
Aug. 25, "	do	Hardware and clothing	do	3,253 76	2,450 65	803 11
Sept. 26, "	do	do do	do	15,282 97	11,751 27	3,531 70
Aug. 22, "	do	Hardware, &c	do	2,617 75	2,209 71	408 04
Sept. 11, "	do	Boots	do	2,000 00	1,765 00	235 00
" 1, "	do	Hardware	do	771 35	557 07	214 28
" 5, "	do	Boots	do	720 00	508 32	211 68
" 3, "	do	Clothing and equipage	do	400 00	298 76	101 04
Aug. 30, "	do	Hardware	do	1,628 68	1,348 48	280 20
Sept. 25, "	do	do	do	434 30	332 52	101 78
" 5, "	do	do	do	1,007 01	787 60	219 41
" 2, "	do	do	do	2,315 71	1,964 96	350 75
" 5, "	do	Hardware and clothing	do	3,153 68	2,395 67	758 01
" 26, "	do	Hardware, &c	do	1,694 94	1,304 35	390 59
" 26, "	do	Boots	do	4,472 00	3,946 54	525 46
" 2, "	do	Clothing	do	120 00	82 00	38 00
" 1, "	do	Flannel	do	2,296 18	2,033 76	362 52
" 26, "	do	Clothing and hardware	do	20,388 90	14,881 05	5,507 85
" 3, "	do	Hardware	do	760 94	750 54	10 40
Aug. 26, "	do	do	do	737 20	559 15	178 05
" 29, "	do	Clothing and equipage	do	25,627 93	19,171 59	6,456 34
" 29, "	do	Hardware	do	192 75	162 43	30 32
" 20, "	do	do	do	423 51	378 57	44 94
" 30, "	do	Hardware and equipage	do	7,637 30	5,746 20	1,891 10
" 29, "	do	do do	do	1,638 79	1,280 36	358 43
" 25, "	do	do do	do	1,800 15	1,599 69	200 46
Sept. 4, "	do	Flannel	do	1,737 32	1,436 29	301 03
" 9, "	do	Cloth and flannel	do	18,293 69	14,008 33	4,285 36
" 6, "	do	Hardward and equipage	do	554 44	505 01	49 43
" 19, "	do	Cloth, flannel, &c	do	25,977 82	19,968 62	6,009 20
" 30, "	Capt. Rankin	Clothing and hardware	do	94,600 60	47,165 46	47,434 54
" 30, "	do	Hardware	do	37 05	36 59	46
Oct. 9, "	do	Clothing	do	25,686 00	17,887 04	7,798 96
Sept. 17, "	do	do	do	9,608 00	7,088 00	2,520 00
Oct. 9, "	do	Hardware and equipage	do	2,207 00	1,698 05	508 95
" 9, "	do	Cloth, &c	do	7,838 53	5,656 51	2,182 02
" 10, "	do	do	do	817 75	591 20	226 55
" 7, "	Capt. Turnly	Hardware and equipage	do	6,399 38	4,910 79	1,488 59
" 7, "	do	do do	do	3,901 33	3,211 15	690 18
Sept. 30, "	do	do do	do	18,280 27	15,288 52	2,991 75
" 5, "	do	Nails	do	4 75	4 25	50
" 28, "	do	Portable forge	do	30 60	24 60	6 00
" 17, "	do	Hardware	do	26 05	22 92	3 13
" 14, "	do	Hardware & specie box	do	55 30	45 30	10 00
" 24, "	do	Hardware	do	78 21	72 61	5 60
" 27, "	do	do	do	352 50	214 25	138 25
" 19, "	Major Crane	Specie box	do	55 30	45 30	10 00
" 16, "	Capt. Bradshaw	Hardware	do	105 75	91 38	14 37
" 19, "	Major Brown	Specie box	do	55 30	45 30	10 00
" 19, "	do	do	do	55 30	45 30	10 00
" 1, "	Capt. Zagoni	Hardware	do	1,115 75	890 09	225 66
" 30, "	Capt. Bradshaw	do	do	398 39	334 23	64 16
" 14, "	Major Hatch	do	do	2,413 35	1,893 03	520 32
" 30, "	Capt. J. L. Dodds	do	do	440 31	386 78	53 53
" 30, "	Maj. J. McKinstry	Hardware and equipage	do	4,667 10	4,111 12	555 98
Oct. 1, "	do	Equipments	do	3,867 82	3,302 41	565 41
Sept. 30, "	do	Hardware	do	89 55	83 04	6 51
" 3, "	do	Hardware and equipage	do	3,209 65	2,324 31	885 29
" 13, "	do	Canteens	do	1,274 60	819 60	455 00
Oct. 9, "	do	Shot-guns	do	15,660 70	11,966 54	3,694 16
				478,119 62	315,008 15	163,111 47

3 And the actual amount due to these claimants upon all of said vouchers, creating express contracts by the United States to and with these claimants, is the sum of four hundred seventy-eight thousand one hundred and nineteen dollars and sixty-two cents; and the total amount paid to these claimants thereon by the United States is three hundred and fifteen thousand and eight dollars and fifteen cents; and the true and just balance due to these claimants upon said vouchers from the United, is one hundred sixty-three thousand one hundr and eleven dollars and forty-seven cents, ($163,111\frac{47}{100}$,) for which amount, with interest thereon at six per centum per annum, from the date of said vouchers, the claimants ask for judgment against the United States of America.

And these claimants further state that after the battle of Bull Run, in July, 1861, the State of Missouri was invaded by rebels and confederate troops, and a war of great magnitude was waged against the federal government in the State of Missouri and elsewhere, and on the 10th day of August, 1861, the federal army, under General Lyon, was defeated by the confederate forces, under General Price and others, at Wilson's Creek, near Springfield, Missouri, and this was followed by the capture of Lexington, Missouri, and a large portion of that State by the rebels; and at this crisis in the war, these claimants advanced, of their own means and money, the capital to purchase the various equipments and supplies for the army of the United States, at St. Louis, as stated above, ordering by telegraph the goods from the eastern cities by express, and borrowing large sums of money upon their own credit, to sustain the federal government in Missouri during the invasion aforesaid.

Claimants further state that in consequence of the difficulties and disagreements that arose between the federal administration at Washington, and the administration of Major General Fremont, in the Department of the West, the large amount due these claimants upon said vouchers remained unpaid for a long period.

And these claimants state that whilst they were struggling hard to keep up their credit and float the great amount of indebtedness which they had incurred in their efforts to sustain the federal government, and furnish the federal army in the State of Missouri with supplies in a great exigency, the Secretary of War of the United States caused a so-called commission, composed of the Honorable David Davis, Joseph Holt, and Hugh Campbell, to investigate the claims against the Military Department of the West; and thereupon the said commission, without any authority of law, caused a military force to be detailed, and said military force seized upon the books and papers of these claimants, and upon the said vouchers, and the said commissioners, having seized upon the said property and effects of these claimants by force, held them by duress, and without warrant of law.

And the said commissioners, while the said vouchers were in their possession, made certain arbitrary estimates of deductions on the said vouchers, and defaced them by marking them with red ink on the face and otherwise, and the total amount of such illegal deductions, so illegally made by said commissioners, was one hundred sixty-three thousand one hundred and eleven dollars and forty-seven cents, ($163,111\frac{47}{100}$.)

And these claimants had invested a large amount of their capital, and had incurred heavy debts, in making the purchases of said property for the use of the federal army, and these debts were falling due, and the credit of these claimants had been greatly injured by the said illegal acts of said commissioners, in defacing and cutting down said

vouchers; and the claimants were unable to renew their bills and notes so falling due by reason thereof, and these claimants were in danger of going to protest, and of losing their credit.

And while the said vouchers of these claimants were so defaced and illegally withheld by said commissioners, they, the said commissioners, notified these claimants that unless they would take the sum of three hundred fifteen thousand and eight dollars and fifteen cents, and give a receipt therefor in full payment of all the said vouchers, they, these claimants, would get nothing, and the commissioners would not give up the vouchers.

And these claimants were under duress by reason of the premises aforesaid, and their duress was so great that they were compelled to take what they could get to save themselves from ruin; and supposing also, that their just demands upon said express contract, would be paid in full when the real state of the case was represented to the War Department, did make and execute a receipt for full payment under such duress, although the sum of only three hundred and fifteen thousand and eight dollars and fifteen cents were allowed by said commissioners, and ordered to be paid to these claimants, when, in fact, the just and full sum of $\$478.119\frac{62}{100}$ was justly and lawfully due to these claimants upon said vouchers, from the United States of America.

And these claimants aver that said commissioners had no lawful right or power to seize upon the books, papers, and vouchers of these claimants, and to deface said vouchers by making deductions thereon, nor had they any lawful right or power to withhold said vouchers from these claimants, or to affect by any decision of theirs, the validity of said vouchers, as binding obligations upon the United States, in favor of these claimants.

4 And, therefore, these claimants aver that all the proceedings of said commissioners were illegal and oppressive, and operated as a duress upon the persons and property of these claimants, and by reason of such acts and doings in the premises, the receipt of said claimants is avoided and of no effect to bar or preclude these claimants from recovering the true amount due them from the United States of America on said vouchers. Wherefore they ask judgment as aforesaid, for the amount still due on said vouchers with interest.

EWING, HILL & BROWNING,
Attorneys for Claimants.

STATE OF MISSOURI, *County of St. Louis, ss:*

Elias Williams Fox, one of the said claimants, and agent for the other claimants, being duly sworn, says that no assignment or transfer of said claims, or any part thereof, or any interest therein, has been made to any person; that said claimants are justly entitled to the amount claimed in the foregoing petition from the United States of America, after allowing all just credits and offsets, and that he believes the facts as stated in said petition are true.

ELIAS WILLIAMS FOX.

Sworn to and subscribed before me this first day of November, 1864.

AUG. W. ALEXANDER,
Com'r Court of Claims.

The post-office address of the claimants is St. Louis, Missouri, and of the attorneys for claimants, No. 12, North A street, Washington City, D. C.

The foregoing petition was filed Nov. 22d, 1864.

5 In the United States Court of Claims.—December term, A. D. 1865.

CHILD, PRATT & FOX
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And the said defendants, by their ass't solicitor, come and make answer to the petition of the claimant herein; and, not confessing the same, or any part thereof, deny each and every the allegations therein contained, and call for strict proof of the same.

And as to so much of the said petition as sets forth and avers that the said United States are indebted to the said claimant in the sum of one hundred and sixty-three thousand one hundred and eleven dollars and forty-seven cents, the said defendants say that they are not indebted to the said claimant in the said sum of money, nor any part thereof.

JOHN J. WEED,
Ass't Solicitor for the United States.

6 In the Court of Claims.

CHILD, PRATT & FOX
vs.
THE UNITED STATES. } No. 2139.

And now, to wit, first of March, A. D. 1869, the court, upon due consideration of the premises, find in favor of the claimant, and do order, adjudge, and decree that the said Alonzo Child, Elon G. Pratt, Elias W. Fox, & Pearley A. Child have and recover of and from the United States the sum of one hundred & sixty-three thousand one hundred & eleven dollars no cents. ($\$163{,}111\frac{00}{100}$.)

By the court.

7 In the Court of Claims.—Dec. term, 1868.

CHILD, PRATT & FOX
vs.
THE UNITED STATES. } No. 2139.

The defendants, by their Att'y General, come and ask the court that an appeal be granted in this case to the Supreme Court of the United States.

March 8, 1869.

T. LYLE DICKEY,
Ass't Att'y Gen'l.

Filed M'ch 8, 1869, in the clerk's office.

8 At a Court of Claims held at the Capitol in the city of Washington, 8th March, A. D. 1869.

CHILD, PRATT & FOX
vs.
THE UNITED STATES. } No. 2139.

Ordered, that the appeal prayed in said case be allowed.

By the court.

9 *The finding of facts and the conclusions of law on said facts on which the court founded its opinion.*

This cause coming on to be heard the third day of Feb'y, 1869, before all of the judges of the Court of Claims, the said court finds as matter of fact—

1st. During the months of August and September, and before the 14th of October, 1861, the city of St Louis being the military centre and headquarters of a large military department, known as the Department of the West, Major McKinstry, the chief quartermaster of the department, and his assistant quartermasters, under the express orders and with the approval of Major General Fremont, commanding the department, purchased of the claimants, then doing business in St. Louis under the firm name of Child, Pratt & Fox, goods and merchandise, consisting of army clothing, cooking utensils, and other quartermaster stores, at prices amounting to $478,119,62, upon which there remains unpaid a balance of $163,111.

The goods were procured without previous advertisement,
10 but under a most grave public and military exigency, by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold between individuals. And the quartermasters purchasing the same gave to the transactions all the publicity, and invited all the competition, which the nature of the exigency admitted of, and also exercised the diligence, care, and prudence which a business man would be expected to exercise if making like purchases for himself amid like circumstances.

And this court, as a conclusion of law upon the facts aforesaid, decides:

That the said purchases by the quartermasters of the Department of the West from the claimants were lawful and valid, and in compliance with the act 2 March, 1861, (12 Stat. L., p. 220, § 10,) and constituted valid contracts, by which the defendants became liable to the claimants.

But this court at the same time, and as matter of law, and in connexion with the ultimate facts aforesaid, decides:

It appearing that a grave public and military exigency existed
11 in the Department of the West at the times aforesaid requiring the immediate purchase and delivery of quartermasters' stores for the use and equipment of the army and for the military defence of the department, and that the same could not be procured in the usual manner by advertisement and proposals, and that the chief quartermasters of the department first applied to the Quartermaster General for such stores, and caused general public notices to be published in the newspapers that such stores were needed by the Quartermaster's Department in St. Louis, and sent agents and wrote and telegraphed to numerous places where such stores were usually procurable, and exhausted by purchase all such stores in his department, and,(failing to procure sufficient supplies by these means, the exigency also continuing and becoming more urgent,) he then, with the approval of the commanding general of the department, requested the claimants, they being responsible merchants doing business in St. Louis and New York, to procure and furnish to the defendants such quartermasters' stores as they should need as fully as the same could be procured, and at the same time informally promised and agreed that if they would do so he would pur-
12 chase the same of them as they might be needed by the defendants, and that the manner of purchase should be that he would on behalf

of the defendants exercise a rigid scrutiny of the claimants' accounts, reducing the same if he deemed them exorbitant; and would, after inspecting the goods and examining the invoices and ascertaining their cost, allow to the claimants a fair mercantile profit on such as he should purchase for the defendants. And it further appearing that the said quartermasters' stores were thus procured under this understanding or agreement, and that during the continuance of the said exigency the chief quartermaster from time to time gave to numerous military officers, for the equipment and necessities of their troops, orders upon the claimants, numbering 420 in all, for such quartermasters' stores, which were accordingly delivered to them by the claimants and used in the military service of the defendants; and that the chief quartermasters then duly examined the said stores and the claimants' invoices thereof, and in good faith settled and determined the price thereof by allowing to the claimants a fair mercantile profit over the cost of the same in
13 the eastern markets; there being, at the time, no market or market prices for such stores in St. Louis, and then gave to the claimants quartermasters' vouchers therefor in the usual form.

This court decides that such specific facts being established, do not necessarily invalidate the purchases aforesaid; and that on the contrary they constitute evidence which this court should pass upon and consider in determining the ultimate fact that the said quartermasters' stores were procured by open purchase or contract within the intent and meaning of the act 2d March, 1861. (12 Stat. L., p. 220, §10.)

2d. And the Court of Claims further finds as matter fact—

The goods and quartermasters' stores mentioned and described in the petition in this case were sold and delivered to the defendants, and were received by the proper officers of the defendants, charged with the care and custody of such goods, and were by them distributed and used in the service of the defendants, who received the benefit thereof. The fair and reasonable value of the same under the conditions and circumstances of their purchase was the sum of $478,119 62,
14 and there remains due and unpaid to the claimants the balance of $163,111\frac{00}{100}$.

And this court, as a conclusion of law upon the facts aforesaid, decides—

That the duly authorized officers of the defendants, lawfully charged with the care and custody of such goods, having received the same and applied them to the proper use of the defendants, and the defendants having received the benefit thereof, they thereby became indebted to the claimants for the fair and reasonable value thereof, notwithstanding any defect or irregularity in the manner of purchase; and that the claimants should recover the said balance of $163,111\frac{00}{100}$, due therefor.

15 3d. And the Court of Claims further finds as matter of fact—

The payment of the quartermaster vouchers, held by the claimants set forth in the petition in this case, and described in the first finding of fact, were suspended by the Secretary of War, in common with all others issued before the 14th October, 1861, by reason of suspected frauds, extravagance, and irregularities in the Department of the West. On the 25th October, 1861, a military commission was appointed by the Secretary of War, whose powers and duties were thus defined:

"WAR DEPARTMENT, *Oct. 25th*, 1861.

"By direction of the President, a commission has been appointed, consisting of Hon. David Davis, of Illinois; Hon. Joseph Holt, of Kentucky; and Hugh Campbell, esq'r., of St. Louis, Missouri, to examine and

report upon all unsettled claims against the Military Department of the West that may have originated prior to the 14th of the present month."

After the committee had entered upon its investigations, the provost-guard of St. Louis forcibly entered the office of the claimants,
16 and against their consent seized and carried before the commission the aforesaid vouchers of the claimants, with their private books of account and business papers. The commission examined the same, and at the conclusion of its investigations endorsed upon each of the said vouchers the amounts allowed respectively by it. And the commission also ordered that there be further deducted from four of these vouchers, "as reclamations for other claims of said Child, Pratt & Fox, held by their assignees, and allowed in full" by the commission, the sum of $46,159 77, making, in all, the sum of $163,111 00 to be deducted from the claimants' vouchers. The commission also withheld all of the said vouchers until the claimants signed a receipt or agreement, not under seal, and without consideration, which provided that when the reduced amounts allowed by the commission should be paid, the payment should be in full of all the claimants' demands against the United States. The claimants, on their part, never submitted their vouchers to the arbitration or decision of the commission, and did not sign the said receipt voluntarily, but under protest, and to obtain
17 possession of their vouchers withheld until they should do so.

And this court, as a conclusion of law upon the facts aforesaid, decides—

That neither Congress nor the claimants having submitted the controversy to the arbitrament of the commission, the said commission was not possessed of jurisdiction or power to determine the rights of the parties, and that the deductions made by the commission from the claimants' vouchers did not constitute a valid or binding award. And further, that the agreement or receipt, signed by the claimants, on receiving back their vouchers, was obtained and exacted by duress of their goods, and was wholly without consideration, and void.

And the Court of Claims further finds, as matter of fact—

The claimants, after receiving back from the commission aforesaid their said vouchers, as described in the preceeding finding of fact, presented them for payment to the Quartermaster General; but the disbursing officer of the defendants refused to pay the same, or any part thereof,
18 on the ground that they had no legal authority to do so; and they continued to refuse payment until the enactment, by Congress, of the joint resolution approved 11th March, 1863, (12 Stat. L., p. 615;) and thereupon, on the 19th March, 1863, the Quartermaster General, by an order, endorsed on each voucher, respectively, "referred the said voucher to Major M. S. Miller, quartermaster, for payment, under the joint resolution of Congress approved March 11th, 1863." And Major Miller, in pursuance of this order, paid to the claimants, upon these vouchers, the amount allowed by the commission.

The claimants, at the time of receiving payment, made no formal objection or protest, but were required to, and did, sign upon each voucher a receipt, not under seal and without consideration, whereby they acknowedged having received such reduced amount "in full of the above account."

And this court, as a conclusion of law upon the facts aforesaid, decides that the joint resolution approved 11th March, 1863, was simply an authority and direction to the defendants' disbursing officers to pay the amounts allowed by the said commission; and the said joint
19 resolution did not ratify the reductions made by the said com-

mission from the claimants' vouchers, nor change, nor in any way affect, the legal rights and liabilities of the parties. That the payment of the reduced amount made to the claimants under said joint resolution by the express order of the Quartermaster General, and its acceptance by the claimants, without objection or protest, did not esstop or conclude the claimants from seeking legal redress for the balance remaining due upon their accounts; and that the receipts required by the quartermaster at the time of payment, expressing upon their face that a less sum was received than that due, and being without consideration, did not operate as a release of the balance of the claimants' accounts, and were wholly void.

And the Court of Claims finally, as a conclusion of law upon all of the facts aforesaid, decides that the claimants should recover of the defendants $163,111\frac{00}{100}$.

20 And the Court of Claims, not as evidence, nor as a statement of the ultimate facts, but for the more clear apprehending of the foregoing findings, attaches thereto one of said vouchers in the petition mentioned and described; and also attaches a copy of the orders of the Secretary of War appointing and describing the said commission, to wit:

OCTOBER 1ST, 1861.

The United States to Child, Pratt & Fox, DR.

For 802 army caps and covers, 1 25	1,902 50
802 cap letters, 6	48 12
802 leather stocks, 25	200 50
802 knapsacks and straps, 3 25	2,606 50
9 boxes, 9; drayages, 1 20	10 20
	3,867 82

I certify that the above account is correct and just; and that the articles have been accounted for on my property return for the quarter ending on the 30th of September, 1861.

J. MCKINSTRY,
Brigadier General and Quartermaster.

Endorsed in red ink on the face: $3,302 41. Allowed upon this voucher, thirty-three hundred and two 41-100 dollars.

D. DAVIS,
Chairman of Commission.

Attest:
J. S. FULLERTON, *Secretary.*

21 WAR DEPARTMENT, *October* 25, 1861.

By direction of the President, a commission has been appointed, consisting of Hon. David Davis, of Illinois; Hon. Joseph Holt, of Kentucky; and Hugh Campbell, esq'r., of St. Louis, Missouri, to examine and report upon all unsettled claims against the Military Department of the West that may have originated prior to the 14th of the present month.

As a member of said commission, you will at once proceed to St. Louis in order that the commission may enter upon the discharge of its duties as early as practable. You will be allowed a compensation of eight dollars per day and mileage.

Samuel T. Glover, esq., of St. Louis, will act as counsel for the government, under the direction of the commission, in the investigation of such claims as may be presented.

Very respectfully,

SIMON CAMERON,
Secretary of War.

22

WAR DEPARTMENT,
November 25th, 1861.

Hon. David Davis, Joseph Holt, Hugh Campbell, commissioners, &c.:

GENTLEMEN: I have the honor to acknowledge your favor of November 19th, asking for definite instructions in regard to the final adjustment of certain classes of claims.

In reply thereto, I will say, first, all just and legal claims for supplies furnished to the government previous to October 14th, 1861, and which may receive your approval, will be paid at St. Louis, as speedily as possible, through the officers of the Quartermaster's, Ordnance, and Commissary Departments.

I would recommend that each bill, when passed upon by your committee, should be endorsed as follows:

The account of , amount, $, has been examined by the commission to investigate claims in the Military Department of the West. It is approved and referred to the officer in charge of the Department at St. Louis for settlement, in accordance with the laws and regulations of the government.

——— ———, *Chairman.*

Attest:

———— ————,
Secretary to Committee.

23 The original bill, when so certified, to be passed to the proper owner, your committee retaining among your records all evidence and a certified copy of the account.

This department will request the Secretary of the Treasury to provide funds for payment of all such claims upon presentation. Claims founded in tort, also those authorized by law or regulation, and bills for supplies, that in your opinion are tainted with fraud, must be postponed for such action as Congress may hereafter direct.

In regard to claims that have accrued since the 14th of October, I fully agree with you that prompt payment should be made by the proper disbursing officers, and to that end requisitions have been made by this department upon the treasury as called for by the heads of the bureaus.

I have called the attention of the Secretary of the Treasury to your views on the subject, and am assured that provision will be made for these claims, so far as practicable, in connection with the other demands upon the treasury.

When your labors are concluded, and I know they are onerous, you will please send to this department a complete record of your pro-
24 ceedings, with such papers as may be in your possession.

Very respectfully,

SIMON CAMERON,
Secretary of War.

25 In the Court of Claims.

ALONZO CHILD ET AL.
vs.
THE UNITED STATES. } No. 2139.

I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, and the final judgment of the court thereon, of the application of the Attorney General of the United States for the allowance of an appeal, as filed in the clerk's office March 8, A. D. 1869, and of the order of the court allowing the same, of the finding of facts, and of the conclusions of law on said facts, on which the court founded its opinion.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Washington, this ninth day of December, A. D. 1869.

[SEAL.]

JOHN RANDOLPH,
Ass't Clerk Court of Claims.

(Indorsement on cover:) No. 360. The United States, appellants, vs. Alonzo Child, E. G. Pratt, et al. Court of Claims.

Filed 11th December, 1869.

In the Supreme Court of the United States.

DECEMBER TERM, 1869.

THE UNITED STATES, APPELLANTS,
vs.
CHILD, PRATT & FOX, APPELLEES. } No. 360.

Petition for writ of certiorari.

The said appellants, by their Attorney General, respectfully represent to the court that this suit was brought in the Court of Claims to recover certain deductions made from vouchers issued to the claimants by quartermasters at St. Louis, which deductions had been made by direction of a commission consisting of Hon. David Davis, Joseph Holt, and Hugh Campbell, after an examination of the claims of the said appellees, for which the said vouchers were issued.

And they further represent that, by the testimony produced on the trial of the said suit before the Court of Claims, it appears that the said appellees did voluntarily present their claims to the said commission; the said commission being a tribunal created and organized for the purpose of examining claims such as those of the said appellees. Yet the said Court of Claims finds and certifies to this court, as a fact, that "the provost guard of St. Louis forcibly entered the office of the claimants, and, against their consent, seized and carried before the commission the aforesaid vouchers of the claimants, with their private books of account and business papers," and does not find that the said claims came before the said commission in any other or different manner.

And they further represent that by the testimony produced in the said suit upon trial in the Court of Claims, it appears that the said claimants appeared before the commission aforesaid, and produced witnesses in support of their said claims. Yet this fact the said Court of Claims fails to find.

And further these appellants represent that the facts so appearing by the testimony produced as aforesaid, are important, and that right and justice require that they be before this court upon the hearing of this cause.

Wherefore the said appellants pray that a writ of certiorari issue to the said Court of Claims, requiring the said court to find and certify to this court as matters of fact—

First. Whether or not before the seizure of the books and papers of the claimants, as found by the said court, the claims of the claimants had been submitted or presented to the said commission by the said claimants.

Second. Whether or not the said claims were so submitted or presented after such seizure.

Third. Whether or not the said claimants appeared before the said commission with witnesses to support their said claims; and, if they did so appear, whether or not it was before or after the seizure of their books and papers by the provost guard of St. Louis.

And the said appellants further ask that the Court of Claims be directed, in making the findings of facts herein called for, to use and regard the deposition of E. W. Fox, one of the claimants, as an admission on the part of the said appellees.

E. R. HOAR,
Attorney General.

UNITED STATES OF AMERICA,
DISTRICT OF COLUMBIA,
City and County of Washington, sct:

Alexander Johnston, of lawful age, makes oath and says that he is employed in the office of the Attorney General, and that his duties relate to the preparation

and trial of cases in the Court of Claims; that he assisted in preparing for trial in the said court the case of Child, Pratt & Fox *vs.* the United States; that he has in his possession, and has carefully examined, the testimony taken in the said case by the claimants and by the defendants; that Benson S. Hopkins, a witness for claimants, testifies as follows:

"In the winter of 1861 and 1862, I was engaged by the Holt, Davis and Campbell commission, sitting at St. Louis, as an accountant. The claimants appeared before this commission and presented claims amounting to between four and five hundred thousand dollars."

And on cross-examination the said witness was asked the following question:

"Did these claimants appear before this commission personally or by attorney?"

To which the witness answered as follows:

"Mr. Fox appeared personally on behalf of the firm, and produced witnesses to support the vouchers."

And further this affiant says that W. H. Waters, another witness called and examined, in the city of St. Louis, by the claimants in the said cause, upon cross-examination was asked the following questions, and gave the following answers:

"Question. Were you examined before the Holt, Davis, and Campbell commission, that sat in this city in the fall of 1861?

"Answer. I was.

* * * * * *

"Question. You gave in testimony relating especially to the claim of Child, Pratt & Fox, or the prices charged by them?

"Answer. I think I was called for that special purpose; I was called by Mr. Fox; I was his witness."

And further this affiant says that John P. Coghlan, a person in the employ of the claimants, and called and examined by them as a witness in the said case in the Court of Claims, testified as follows: